

### **REMARKS**

In the Action, claims 1-4, 6-12, 22 and 24-26 are rejected, and claims 13-21 are withdrawn from consideration as being directed to the non-elected invention. By this amendment, claim 1 is amended to include the subject matter of claim 12, and claim 22 is amended to include the subject matter of claim 25. Claims 12 and 25 are cancelled. The pending claims in this application being examined are claims 1-4, 6-11, 22, 24 and 26, with claims 1 and 22 being independent.

In view of these amendments and the following comments, reconsideration and allowance are requested.

#### **Rejection Under 35 U.S.C. § 103(a)**

Claims 1-4, 6, 7 and 22 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,369,042 to Oberthur et al. in view of U.S. Patent No. 4,261,462 to Wysocki. Claims 1 and 22 are now amended to include the subject matter of original claims 12 and 25, respectively. Accordingly, these amendments obviate this rejection.

Claims 8-12 and 24-26 are rejected under 35 U.S.C. § 103(a) as being obvious over Oberthur et al. in view of Wysocki and further in view of U.S. Patent No. 6,060,547 to Canter et al. Oberthur et al. is cited for disclosing a cosmetic composition including an organic solvent and water within a container that can be applied by spraying using a propellant. As noted in the Action, Oberthur et al. does not disclose or suggest a container enclosing the composition where the container or packaging of the container include an illustrative medium made up of descriptive text and/or images. Wysocki is cited for disclosing a display package that can include an illustrative medium but does not disclose spray compositions for applying to legs to simulate

stockings. The Action contends that it would be obvious to apply an illustrative medium to the container disclosed in Oberthur et al with the display package and instructions of Wysocki.

Canter et al. is cited for disclosing a cosmetic composition including coloring agents and film forming polymers. The Action contends that it would have been obvious to use the various components of Canter et al. in the composition of Oberthur et al. with the display package of Wysocki.

Oberthur et al., Wysocki and Canter et al. in combination do not disclose or suggest the claimed unit or composition for simulating stockings applied to the legs where the composition is a sprayable composition including a coloring agent, a cosmetic, an organic solvent, water and a film-forming polymer in an amount of 0.5 to 20% by weight based on the weight of the composition as recited in amended claims 1 and 22. The combination of the cited patents further fails to disclose a container containing the composition with an illustrative medium to assist the user in applying the composition to the legs to form the appearance of stockings.

Oberthur et al. is directed to an oxidative Vitamin B analog composition. The Vitamin B containing composition is applied to the skin to protect the skin from the sun and for the treatment of various diseases of the skin, including viral, parasitic and fungal infections. Thus, the composition of Oberthur et al. is primarily directed to a pharmaceutical composition for topical application. There is no suggestion that the composition of Oberthur et al. is capable of simulating stockings applied to the legs of a person or that the composition is capable of simulating stockings.

Canter et al. is cited for disclosing a cosmetic formulation including coloring agents and a film forming polymer. Canter et al. does not disclose or suggest a composition capable of simulating stockings on the legs of a person. Thus, Canter et al. provides no motivation or

incentive to one of ordinary skill in the art to modify the composition of Oberthur et al. to produce a sprayable composition that is capable of simulating stockings when applied to the legs of a person. Wysocki also provides no motivation to include an illustrative medium for simulating stockings with the composition of Canter et al. or Oberthur et al.

As noted on pages 11 and 12 of the specification, the film forming polymer of the present invention is provided in an amount of 0.5 to 20% by weight based on the weight of the composition to provide abrasion resistance and transfer resistance to the composition. The abrasion resistance and transfer resistance of the composition when applied to the legs of a person are particularly important to retain the appearance of stockings. Thus, the film forming polymers are selected to provide the abrasion resistance and transfer resistance. The transfer resistance of the sprayable composition of the present invention is particularly important to prevent transfer to clothing and other objects during use. These features are not disclosed or suggested in the combination of the cited patents. Moreover, since the cited patents are not concerned with applying the composition to the legs, the transfer resistance is not important and provides no suggestion of selecting the film forming polymer to enhance transfer resistance.

In view of the above comments, the combination of Oberthur et al, Wysocki and Canter et al. fail to disclose or suggest the claimed sprayable composition in a container having an illustrative medium to assist the user in applying the composition for simulating stockings. Thus, independent claims 1 and 22 are allowable over the art of record.

The claims depending from claims 1 and 22 are also allowable for reciting additional features of the invention that are not disclosed or suggested in the art of record in combination with the features of the independent claims. Specifically, the cited art does not disclose or suggest the illustrative medium of claims 2, 3 and 4 in combination with the packaged unit of

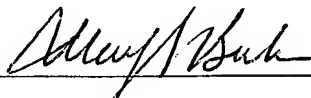
claim 1. The cited art further fails to disclose the amount of the coloring agent of claim 6 or the coloring agents being inorganic pigments as in claim 7 or the coloring agents recited in claim 8 in combination with the features of the unit recited in claim 1.

Claim 9 depends from claim 1 to recite that the coloring agent includes a silk powder. The silk powder of claim 9 is included in an amount sufficient to produce a composition that is capable of simulating stockings when applied to the legs of a person. The Action cites Canter et al. as disclosing the general use of silk powder. However, Canter et al. does not disclose or suggest the use of silk powder as a coloring agent in combination with the spray composition of claim 1 for simulating stockings when applied to the legs of a user. Accordingly, claim 9 is not obvious over the combination of Oberthur et al., Wysocki and Canter et al.

The art of record also fails to disclose the specific coloring agents of claim 10 or the use of silica or aluminum powder as in claim 11 in combination with the sprayable composition of claim 1. The cited patents further fail to disclose the pigments recited in claim 24 in combination with the packaged assembly of claim 22. Accordingly, these claims are allowable over the art of record.

In view of these amendments and the above comments, reconsideration and allowance are requested.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Mark S. Bicks", is written over a horizontal line.

Mark S. Bicks  
Reg. No. 28,770

Roylance, Abrams, Berdo & Goodman, L.L.P.  
1300 19<sup>th</sup> Street, N.W., Suite 600  
Washington, D.C. 20036-1649  
(202) 659-9076

Dated: Nov. 6, 2006